

**ASSEMBLY, No. 2040**

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**STATE OF NEW JERSEY**

**218th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblyman CRAIG J. COUGHLIN**

**District 19 (Middlesex)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Assemblywoman ELIANA PINTOR MARIN**

**District 29 (Essex)**

**Co-Sponsored by:**

**Assemblyman Caputo**

**SYNOPSIS**

Makes changes to funding provisions for financial assistance and grants from Hazardous Discharge Site Remediation Fund.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning financial assistance and grants from the  
2 Hazardous Discharge Site Remediation Fund, and amending and  
3 supplementing P.L.1993, c.139.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. Section 27 of P.L.1993, c.139 (C.58:10B-5) is amended to  
9 read as follows:

10 27. a. (1) Except as provided in section 4 of P.L.2007, c.135  
11 (C.52:27D-130.7), financial assistance from the remediation fund  
12 may only be rendered to persons who cannot establish a remediation  
13 funding source for the full amount of a remediation. Financial  
14 assistance pursuant to this act may be rendered only for that amount  
15 of the cost of a remediation for which the person cannot establish a  
16 remediation funding source. The limitations on receiving financial  
17 assistance established in this paragraph (1) shall not limit the ability  
18 of municipalities, counties, redevelopment entities authorized to  
19 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
20 c.79 (C.40A:12A-4), **[persons who are not required to establish a**  
21 **remediation funding source for the part of the remediation involving**  
22 **an innovative technology, an unrestricted use remedial action or a**  
23 **limited restricted use remedial action,]** persons who are not  
24 required to establish a remediation funding source for that part of  
25 the remediation involving an unrestricted use remedial action,  
26 persons performing a remediation in an environmental opportunity  
27 zone, or persons who voluntarily perform a remediation, from  
28 receiving financial assistance from the fund.

29 (2) Financial assistance rendered to persons who voluntarily  
30 perform a remediation or perform a remediation in an  
31 environmental opportunity zone may only be made for that amount  
32 of the cost of the remediation that the person cannot otherwise fund  
33 by any of the authorized methods to establish a remediation funding  
34 source.

35 (3) **[Financial assistance rendered to persons who do not have to**  
36 **provide a remediation funding source for the part of the remediation**  
37 **that involves an innovative technology, an unrestricted use remedial**  
38 **action, or a limited restricted use remedial action may only be made**  
39 **for that amount of the cost of the remediation that the person cannot**  
40 **otherwise fund by any of the authorized methods to establish a**  
41 **remediation funding source.].** Financial assistance rendered to  
42 persons who do not have to provide a remediation funding source for  
43 the part of the remediation that involves an unrestricted use remedial  
44 action may only be made for that amount of the cost of the

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 remediation that the person cannot otherwise fund by any of the  
2 authorized methods to establish a remediation funding source.

3 b. Financial assistance may be rendered from the remediation  
4 fund to (1) owners or operators of industrial establishments who are  
5 required to perform remediation activities pursuant to P.L.1983,  
6 c.330 (C.13:1K-6 et al.), upon closing operations or prior to the  
7 transfer of ownership or operations of an industrial establishment,  
8 (2) persons who are liable for the cleanup and removal costs of a  
9 hazardous substance pursuant to P.L.1976, c.141 (C.58:10-23.11 et  
10 seq.), and (3) persons who voluntarily perform a remediation of a  
11 discharge of a hazardous substance or hazardous waste.

12 c. Financial assistance and grants may be made from the  
13 remediation fund to a municipality, county, or redevelopment entity  
14 authorized to exercise redevelopment powers pursuant to section 4  
15 of P.L.1992, c.79 (C.40A:12A-4), for real property: (1) on which it  
16 holds a tax sale certificate; (2) that it has acquired through  
17 foreclosure or other similar means; or (3) that it has acquired, or in  
18 the case of a county governed by a board of chosen freeholders, has  
19 passed a resolution or, in the case of a municipality or a county  
20 operating under the "Optional County Charter Law," P.L.1972,  
21 c.154 (C.40:41A-1 et seq.), has passed an ordinance or other  
22 appropriate document to acquire, by voluntary conveyance for the  
23 purpose of redevelopment, for renewable energy generation or for  
24 recreation and conservation purposes. Financial assistance and  
25 grants may only be awarded for real property on which there has  
26 been a discharge or on which there is a suspected discharge of a  
27 hazardous substance or hazardous waste.

28 d. **【Grants may be made from the remediation fund to persons**  
29 **who own real property on which there has been a discharge of a**  
30 **hazardous substance or a hazardous waste and that person qualifies**  
31 **for an innocent party grant pursuant to section 28 of P.L.1993,**  
32 **c.139 (C.58:10B-6).】** (Deleted by amendment, P.L. , c. )  
33 (pending before the Legislature as this bill). Grants may be made  
34 from the remediation fund to qualifying persons who propose to  
35 perform a remedial action that would result in an unrestricted use  
36 remedial action.

37 e. **【Grants may be made from the remediation fund to**  
38 **qualifying persons who propose to perform a remedial action that**  
39 **uses an innovative technology or that would result in an unrestricted**  
40 **use remedial action or a limited restricted use remedial action.】**

41 f. Grants may be made from the remediation fund to  
42 municipalities, counties, and redevelopment entities authorized to  
43 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
44 c.79 (C.40A:12A-4), for the preliminary assessment, site  
45 investigation, remedial investigation, and remedial action **【on**  
46 **contaminated】** for real property where there is a discharge or  
47 suspected discharge of a hazardous substance or hazardous waste

1 within a brownfield development area. Grants may only be made for  
2 a remedial action pursuant to this subsection when there is a  
3 confirmed discharge of a hazardous substance or hazardous waste.  
4 Grants made pursuant to this subsection for a remedial action may  
5 not exceed 75 percent of the total costs of the remedial action. An  
6 ownership interest in the contaminated property shall not be  
7 required in order for a municipality, county, or redevelopment  
8 entity authorized to exercise redevelopment powers pursuant to  
9 section 4 of P.L.1992, c.79 (C.40A:12A-4) to receive a grant for a  
10 **【remediation of】** preliminary assessment, site investigation, and  
11 remedial investigation for real property where there is a discharge  
12 or suspected discharge of a hazardous substance or hazardous waste  
13 in a brownfield **【redevelopment】** development area.  
14 Notwithstanding the limitation on the total amount of financial  
15 assistance and grants that may be awarded in any one year pursuant  
16 to subsection b. of section 28 of P.L.1993, c.139 (C.58:10B-6), the  
17 authority may award an additional amount of financial assistance  
18 and grants in any one year, of up to **【\$2,000,000】** \$1,000,000, to  
19 any one municipality, county, or redevelopment entity for the  
20 remediation of property in a brownfield development area. **【Any**  
21 **property on which a municipality, county, or redevelopment entity**  
22 **makes expenditures for a remedial action and the property is not**  
23 **owned by that entity shall be subject to the provisions of section 8**  
24 **of P.L.2005, c.223 (C.58:10B-25.2).】**  
25 (cf: P.L.2009, c.302, s.1)

26  
27 2. Section 28 of P.L.1993, c.139 (C.58:10B-6) is amended to  
28 read as follows:

29 28. a. Except for moneys deposited in the remediation fund for  
30 specific purposes, and as provided in section 4 of P.L.2007, c.135  
31 (C.52:27D-130.7), financial assistance and grants from the  
32 remediation fund shall be rendered for the following purposes. A  
33 written report shall be sent to the Senate Environment and Energy  
34 Committee, and the Assembly Environment and Solid Waste  
35 Committee, or their successors at the end of each calendar quarter  
36 detailing the allocation and expenditures related to the financial  
37 assistance and grants from the fund.

38 (1) Moneys shall be allocated for financial assistance to persons,  
39 for remediation of real property located in a qualifying municipality  
40 as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

41 (2) Moneys shall be allocated to: (a) municipalities, counties, or  
42 redevelopment entities authorized to exercise redevelopment  
43 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for:

44 (i) projects in brownfield development areas pursuant to  
45 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5),

46 (ii) matching grants up to a cumulative total amount from the  
47 fund of **【\$5,000,000】** \$2,500,000 per year of up to **【75%】** 75

1 percent of the costs of the remedial action for projects involving the  
2 redevelopment of contaminated property for recreation and  
3 conservation purposes, provided that the use of the property for  
4 recreation and conservation purposes is included in the  
5 comprehensive plan for the development or redevelopment of  
6 contaminated property, up to **【75%】** 75 percent of the costs of the  
7 remedial action for projects involving the redevelopment of  
8 contaminated property for renewable energy generation, or up to  
9 **【50%】** 50 percent of the costs of the remedial action for projects  
10 involving the redevelopment of contaminated property for  
11 affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et  
12 al.),

13 (iii) grants for preliminary assessment, site investigation or  
14 remedial investigation of a contaminated site,

15 (iv) financial assistance or grants for the implementation of a  
16 remedial action, or

17 (v) financial assistance for remediation activities at sites that  
18 have been contaminated by a discharge of a hazardous substance or  
19 hazardous waste, or at which there is an imminent and significant  
20 threat of a discharge of a hazardous substance or hazardous waste,  
21 and the discharge or threatened discharge poses or would pose an  
22 imminent and significant threat to a drinking water source, to  
23 human health, or to a sensitive or significant ecological area; or

24 (b) persons for financial assistance for remediation activities at  
25 sites that have been contaminated by a discharge of a hazardous  
26 substance or hazardous waste, or at which there is an imminent and  
27 significant threat of a discharge of a hazardous substance or  
28 hazardous waste, and the discharge or threatened discharge poses or  
29 would pose an imminent and significant threat to a drinking water  
30 source, to human health, or to a sensitive or significant ecological  
31 area.

32 Except as provided in subsection f. of section 27 of P.L.1993,  
33 c.139 (C.58:10B-5), financial assistance and grants to  
34 municipalities, counties, or redevelopment entities authorized to  
35 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
36 c.79 (C.40A:12A-4) may be made for real property: (1) on which  
37 they hold a tax sale certificate; (2) that they have acquired through  
38 foreclosure or other similar means; or (3) that they have acquired,  
39 or, in the case of a county governed by a board of chosen  
40 freeholders, have passed a resolution or, in the case of a  
41 municipality or a county operating under the "Optional County  
42 Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), have passed an  
43 ordinance or other appropriate document to acquire, by voluntary  
44 conveyance for the purpose of redevelopment, or for recreation and  
45 conservation purposes. Financial assistance and grants may only be  
46 awarded for real property on which there has been or on which there  
47 is suspected of being a discharge of a hazardous substance or a  
48 hazardous waste. Grants and financial assistance provided pursuant



1 to this paragraph shall be used for performing preliminary  
2 assessments, site investigations, remedial investigations, and  
3 remedial actions on real property in order to determine the existence  
4 or extent of any hazardous substance or hazardous waste  
5 contamination, and to remediate the site in compliance with the  
6 applicable health risk and environmental standards on those  
7 properties. No financial assistance or grants for a remedial action  
8 shall be awarded until the municipality, county, or redevelopment  
9 entity authorized to exercise redevelopment powers pursuant to  
10 section 4 of P.L.1992, c.79 (C.40A:12A-4), actually owns the real  
11 property **】, provided that a matching grant for 75% of the costs of a**  
12 **remedial action for a project involving the redevelopment of**  
13 **contaminated property for recreation and conservation purposes, or**  
14 **a matching grant for 50% of the costs of a remedial action for a**  
15 **project involving the redevelopment of contaminated property for**  
16 **affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et**  
17 **al.) may be made to a municipality, county, or redevelopment entity**  
18 **authorized to exercise redevelopment powers pursuant to section 4**  
19 **of P.L.1992, c.79 (C.40A:12A-4) even if it does not own the real**  
20 **property and a grant may be made to a municipality, county, or**  
21 **redevelopment entity authorized to exercise redevelopment powers**  
22 **pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) for a**  
23 **remediation in a brownfield development area pursuant to**  
24 **subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5) even if**  
25 **the entity does not own the real property】 , provided that a**  
26 **matching grant for 75 percent of the costs of a remedial action for a**  
27 **project involving the redevelopment of contaminated property for**  
28 **recreation and conservation purposes, or a matching grant for 50**  
29 **percent of the costs of a remedial action for a project involving the**  
30 **redevelopment of contaminated property for affordable housing**  
31 **pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) may be made to a**  
32 **municipality, county, or redevelopment entity authorized to exercise**  
33 **redevelopment powers pursuant to section 4 of P.L.1992, c.79**  
34 **(C.40A:12A-4) even if it does not own the real property and a grant**  
35 **may be made to a municipality, county, or redevelopment entity**  
36 **authorized to exercise redevelopment powers pursuant to section 4**  
37 **of P.L.1992, c.79 (C.40A:12A-4) for a remediation in a brownfield**  
38 **development area pursuant to subsection f. of section 27 of**  
39 **P.L.1993, c.139 (C.58:10B-5) even if the entity does not own the**  
40 **real property . No grant shall be awarded for a remedial action for a**  
41 **project involving the redevelopment of contaminated property for**  
42 **recreation or conservation purposes unless the use of the property is**  
43 **preserved for recreation and conservation purposes by conveyance**  
44 **of a development easement, conservation restriction or easement, or**  
45 **other restriction or easement permanently restricting development,**  
46 **which shall be recorded and indexed with the deed in the registry of**  
47 **deeds for the county. 【A municipality that has performed, or on**  
48 **which there has been performed, a preliminary assessment, site**

1 investigation or remedial investigation on property may obtain a  
2 loan for the purpose of continuing the remediation on those  
3 properties as necessary to comply with the applicable remediation  
4 regulations adopted by the department.】 No grant shall be awarded  
5 pursuant to this paragraph to a municipality, a county, or a  
6 redevelopment entity authorized to exercise redevelopment powers  
7 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) unless that  
8 entity has adopted by ordinance or resolution a comprehensive plan  
9 specifically for the development or redevelopment of contaminated  
10 or potentially contaminated real property in that municipality or the  
11 entity can demonstrate its commitment to the authority 【that a  
12 realistic opportunity exists】 that the subject real property will be  
13 developed or redeveloped within a three-year period from the  
14 completion of the remediation . Until adoption of the criteria  
15 required pursuant to paragraph (8) of subsection a. of section 30 of  
16 P.L.1993, c.139 (C.58:10B-8), the authority shall use the criteria  
17 provided in this paragraph in determining the award of grants from  
18 the remediation fund ;

19 (3) Moneys shall be allocated for financial assistance to persons  
20 who voluntarily perform a remediation of a hazardous substance or  
21 hazardous waste discharge;

22 (4) 【Moneys shall be allocated for grants to persons who own  
23 real property on which there has been a discharge of a hazardous  
24 substance or a hazardous waste and that person qualifies for an  
25 innocent party grant. A person qualifies for an innocent party grant  
26 if that person acquired the property prior to December 31, 1983 and  
27 continues to own the property until such time as the authority  
28 approves the grant, the hazardous substance or hazardous waste that  
29 was discharged at the property was not used by the person at that  
30 site, and that person certifies that he did not discharge any  
31 hazardous substance or hazardous waste at an area where a  
32 discharge is discovered. A grant authorized pursuant to this  
33 paragraph may be for up to 50% of the remediation costs at the area  
34 of concern for which the person qualifies for an innocent party  
35 grant, except that no grant awarded pursuant to this paragraph to  
36 any person may exceed \$1,000,000.】 (Deleted by amendment, P.L.  
37 , c. (pending before the Legislature as this bill).

38 (5) Moneys shall be allocated for 【(a)】 (a) financial assistance  
39 to persons who own and plan to remediate an environmental  
40 opportunity zone for which an exemption from real property taxes  
41 has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-  
42 3.154) 【, or (b) matching grants for up to 25% of the project costs  
43 to qualifying persons, municipalities, counties, and redevelopment  
44 entities authorized to exercise redevelopment powers pursuant to  
45 section 4 of P.L.1992, c.79 (C.40A:12A-4), who propose to perform  
46 a remedial action that uses an innovative technology, or for the  
47 implementation of a limited restricted use remedial action or an

1   unrestricted use remedial action except that no grant awarded  
2   pursuant to this paragraph may exceed \$250,000】 , or (b) matching  
3   grants for up to 25 percent of the project costs to qualifying  
4   persons, municipalities, counties, and redevelopment entities  
5   authorized to exercise redevelopment powers pursuant to section 4  
6   of P.L.1992, c.79 (C.40A:12A-4), who propose to perform a  
7   remedial action for the implementation of an unrestricted use  
8   remedial action except that no grant awarded pursuant to this  
9   paragraph may exceed \$250,000; and

10       (6) 【Twenty percent of the moneys in the remediation fund shall  
11   be allocated for financial assistance or grants for any of the  
12   purposes the purpose enumerated in paragraphs (1) through (5) of  
13   this subsection】 At least 30 percent of the moneys in the  
14   remediation fund shall be allocated for grants to a municipality,  
15   county, or redevelopment entity authorized to exercise  
16   redevelopment powers pursuant to section 4 of P.L.1992, c.79  
17   (C.40A:12A-4) for the preliminary assessment, site investigation,  
18   remedial investigation, or remedial action of a site, not located in a  
19   brownfield development area, that has been contaminated by a  
20   discharge or a suspected discharge of a hazardous substance or  
21   hazardous waste as authorized in this subsection. The remainder of  
22   the moneys in the remediation fund shall be allocated for any of the  
23   purposes authorized in this section.

24       【For the purposes of paragraph (5) of this subsection, "qualifying  
25   persons" means any person who has a net worth of not more than  
26   \$2,000,000 and "project costs" means that portion of the total costs  
27   of a remediation that is specifically for the use of an innovative  
28   technology or to implement an unrestricted use remedial action or a  
29   limited restricted use remedial action, as applicable.】 For the  
30   purposes of paragraph (5) of this subsection, "qualifying persons"  
31   means any person who has a net worth of not more than \$2,000,000  
32   and "project costs" means that portion of the total costs of a  
33   remediation that is specifically to implement an unrestricted use  
34   remedial action.

35       b. Loans issued from the remediation fund shall be for a term  
36   not to exceed ten years, except that upon the transfer of ownership  
37   of any real property for which the loan was made, the unpaid  
38   balance of the loan shall become immediately payable in full. The  
39   unpaid balance of a loan for the remediation of real property that is  
40   transferred by devise or succession shall not become immediately  
41   payable in full, and loan repayments shall be made by the person  
42   who acquires the property. Loans to municipalities, counties, and  
43   redevelopment entities authorized to exercise redevelopment  
44   powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4),  
45   shall bear an interest rate equal to 2 points below the Federal  
46   Discount Rate at the time of approval or at the time of loan closing,  
47   whichever is lower, except that the rate shall be no lower than 3



1 percent. All other loans shall bear an interest rate equal to the  
2 Federal Discount Rate at the time of approval or at the time of the  
3 loan closing, whichever is lower, except that the rate on such loans  
4 shall be no lower than five percent. Financial assistance and grants  
5 may be issued for up to **【100%】** 100 percent of the estimated  
6 applicable remediation cost, except that the cumulative maximum  
7 amount of financial assistance which may be issued to a person, in  
8 any calendar year, for one or more properties, shall be  
9 **【\$1,000,000】** \$500,000 . Financial assistance and grants to any one  
10 municipality, county, or redevelopment entity authorized to exercise  
11 redevelopment powers pursuant to section 4 of P.L.1992, c.79  
12 (C.40A:12A-4) may not exceed **【\$3,000,000】** \$2,000,000 in any  
13 calendar year except as provided in subsection f. of section 27 of  
14 P.L.1993, c.139 (C.58:10B-5). Grants to a municipality, county, or  
15 redevelopment entity authorized to exercise redevelopment powers  
16 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may be for  
17 up to **【100%】** 100 percent of the total costs of the preliminary  
18 assessment, site investigation, or remedial investigation **【regardless**  
19 **of when the application was received by the department】** subject to  
20 the provisions of section 5 of P.L. , c. (C. ) (pending before  
21 the Legislature as this bill). Grants to a municipality, a county, or a  
22 redevelopment entity authorized to exercise redevelopment powers  
23 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not  
24 exceed **【75%】** 75 percent of the total costs of the remedial action at  
25 any one site **【for any application received by the department on or**  
26 **after September 15, 2005】**. Repayments of principal and interest on  
27 the loans issued from the remediation fund shall be paid to the  
28 authority and shall be deposited into the remediation fund.

29 c. **【No person, other than a qualified person planning to use an**  
30 **innovative technology for the cost of that technology, a qualified**  
31 **person planning to use a limited restricted use remedial action or an**  
32 **unrestricted use remedial action for the cost of the remedial action,**  
33 **a person performing a remediation in an environmental opportunity**  
34 **zone, or a person voluntarily performing a remediation, shall be**  
35 **eligible for financial assistance from the remediation fund to the**  
36 **extent that person is capable of establishing a remediation funding**  
37 **source for the remediation as required pursuant to section 25 of**  
38 **P.L.1993, c.139 (C.58:10B-3).】** No person, other than a qualified  
39 person planning to use an unrestricted use remedial action for the  
40 cost of the remedial action, a person performing a remediation in an  
41 environmental opportunity zone, or a person voluntarily performing  
42 a remediation, shall be eligible for financial assistance from the  
43 remediation fund to the extent that person is capable of establishing  
44 a remediation funding source for the remediation as required  
45 pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3).

46 d. The authority may use a sum that represents up to **【2%】** 2  
47 percent of the moneys issued as financial assistance or grants from

1 the remediation fund each year for administrative expenses incurred  
2 in connection with the operation of the fund and the issuance of  
3 financial assistance and grants.

4 e. Prior to March 1 of each year, the authority shall submit to  
5 the Senate Environment and Energy Committee and the Assembly  
6 Environment and Solid Waste Committee, or their successors, a  
7 report detailing the amount of money that was available for  
8 financial assistance and grants from the remediation fund for the  
9 previous calendar year, the amount of money estimated to be  
10 available for financial assistance and grants for the current calendar  
11 year, the amount of financial assistance and grants issued for the  
12 previous calendar year and the category for which each financial  
13 assistance and grant was rendered, the amount of remediation costs  
14 expended for each site for the previous calendar year for which  
15 financial assistance or a grant has been approved and the balance  
16 remaining on each financial assistance or grant, and any suggestions  
17 for legislative action the authority deems advisable to further the  
18 legislative intent to facilitate remediation and promote the  
19 redevelopment and use of existing industrial sites.

20 (cf: P.L.2009, c.303, s.1)

21  
22 3. Section 29 of P.L.1993, c.139 (C.58:10B-7) is amended to  
23 read as follows:

24 29. a. A qualified applicant for financial assistance or a grant  
25 from the remediation fund shall be awarded financial assistance or a  
26 grant by the authority upon the availability of sufficient moneys in  
27 the remediation fund for the purpose of the financial assistance or  
28 grant. **【The】** The authority shall award financial assistance and  
29 grants in the following order of priority:

30 (1) Sites on which there has been a discharge and the discharge  
31 poses an imminent and significant threat to a drinking water source,  
32 to human health, or to a sensitive or significant ecological area shall  
33 be given first priority; **【and】**

34 (2) **【Sites in areas designated as Planning Area 1**  
35 **(Metropolitan), Planning Area 2 (Suburban), designated centers, or**  
36 **areas receiving plan endorsement as designated pursuant to the**  
37 **"State Planning Act," sections 1 through 12 of P.L.1985, c.398**  
38 **(C.52:18A-196 et seq.), sites that the Brownfields Redevelopment**  
39 **Task Force, established pursuant to section 5 of P.L.1997, c.278**  
40 **(C.58:10B-23), determines are of immediate economic development**  
41 **potential, and sites in brownfield development areas, shall be given**  
42 **second priority.】** (Deleted by amendment, P.L. , c. ) (pending  
43 before the Legislature as this bill)

44 (3) Sites that are owned by a municipality in a brownfield  
45 development area shall be given second priority; and

46 (4) Sites in areas designated as Planning Area 1 (Metropolitan)  
47 and Planning Area 2 (Suburban) pursuant to the "State Planning

1 Act," P.L.1985, c.398 (C.52:18A-196 et seq.), shall be given third  
2 priority.

3 The priority ranking of applicants within any priority category  
4 enumerated in this section for awarding financial assistance and  
5 grants from the remediation fund shall be based upon the date of  
6 receipt by the authority of an application from the applicant and on  
7 readiness to proceed with remediation as determined by the  
8 department and the authority. If an application is determined to be  
9 incomplete by the authority, an applicant shall have 30 days from  
10 receipt of written notice of incompleteness to file any additional  
11 information as may be required by the authority for a completed  
12 application. If an applicant fails to file the additional information  
13 within those 30 days, the filing date for that application for  
14 financial assistance or a grant for a site that is not within a priority  
15 category enumerated in this section, shall be the date that the  
16 additional information is received by the authority. An application  
17 shall be deemed complete when all the information required by the  
18 authority has been received in the required form.

19 b. Within 90 days, for a private entity, or 180 days for a  
20 municipality, county, or a redevelopment entity authorized to  
21 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
22 c.79 (C.40A:12A-4), of notice of approval of a financial assistance  
23 or grant application, an applicant shall submit to the authority an  
24 executed contract for the remediation activities for which the  
25 financial assistance or grant application was made. The contract  
26 shall be consistent with the terms and conditions for which the  
27 financial assistance or grant was rendered. Failure to submit an  
28 executed contract within the time provided, without good cause,  
29 shall constitute grounds for the alteration of an applicant's priority  
30 ranking for the awarding of financial assistance or a grant.  
31 (cf: P.L.2005, c.223, s.5)

32

33 4. Section 30 of P.L.1993, c.139 (C.58:10B-8) is amended to  
34 read as follows:

35 30. a. The authority shall, by rule or regulation:

36 (1) require a financial assistance or grant recipient to provide to  
37 the authority, as necessary or upon request, evidence that financial  
38 assistance or grant moneys are being spent for the purposes for  
39 which the financial assistance or grant was made, and that the  
40 applicant is adhering to all of the terms and conditions of the  
41 financial assistance or grant agreement;

42 (2) require the financial assistance or grant recipient to provide  
43 access at reasonable times to the subject property to determine  
44 compliance with the terms and conditions of the financial assistance  
45 or grant;

46 (3) establish a priority system for rendering financial assistance  
47 or grants for remediations identified by the department as involving  
48 an imminent and significant threat to a public water source, human

1 health, or to a sensitive or significant ecological area pursuant to  
2 subsection a. of section 28 of P.L.1993, c.139 (C.58:10B-6);

3 (4) (Deleted by amendment, P.L.2009, c.60);

4 (5) provide that an applicant for financial assistance or a grant  
5 pay a reasonable fee for the application which shall be used by the  
6 authority for the administration of the loan and grant program;

7 (6) provide that where financial assistance to a person other than  
8 a municipality, a county, or a redevelopment entity authorized to  
9 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
10 c.79 (C.40A:12A-4), is for a portion of the remediation cost, that  
11 the proceeds thereof not be disbursed to the applicant until the costs  
12 of the remediation for which a remediation funding source has been  
13 established has been expended;

14 (7) provide that the amount of a grant for the costs of a remedial  
15 action shall not include the cost to remediate a site to meet  
16 residential soil remediation standards if the local zoning ordinances  
17 adopted pursuant to the "Municipal Land Use Law," P.L.1975,  
18 c.291 (C.40:55D-1 et seq.) do not allow for residential use;

19 (8) adopt criteria, which must be met by a municipality, county,  
20 or redevelopment entity authorized to exercise redevelopment  
21 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) that  
22 applies for a grant pursuant to paragraph (2) of subsection a. of  
23 section 28 of P.L.1993, c.139 (C.58:10B-6), that the subject real  
24 property will be developed or redeveloped within a three-year  
25 period from the completion of the remediation; and

26 (9) adopt such other requirements as the authority shall deem  
27 necessary or appropriate in carrying out the purposes for which the  
28 Hazardous Discharge Site Remediation Fund was created.

29 b. An applicant for financial assistance or a grant shall be  
30 required to:

31 (1) provide proof, as determined sufficient by the authority, that  
32 the applicant, where applicable, cannot establish a remediation  
33 funding source for all or part of the remediation costs, as required  
34 by section 25 of P.L.1993, c.139 (C.58:10B-3). The provisions of  
35 this paragraph do not apply to grants to innocent persons, grants for  
36 the use of innovative technologies, or grants for the implementation  
37 of unrestricted use remedial actions or limited restricted use  
38 remedial actions or to financial assistance or grants to  
39 municipalities, counties, or redevelopment entities authorized to  
40 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
41 c.79 (C.40A:12A-4); and

42 (2) demonstrate the ability to repay the amount of the financial  
43 assistance and interest, and, if necessary, to provide adequate  
44 collateral to secure the financial assistance amount.

45 c. Information submitted as part of a loan or grant application  
46 or agreement shall be deemed a public record subject to the  
47 provisions of P.L.1963, c.73 (C.47:1A-1 et seq.).

1 d. In establishing requirements for financial assistance or grant  
2 applications and financial assistance or grant agreements, the  
3 authority:

4 (1) shall minimize the complexity and costs to applicants or  
5 recipients of complying with such requirements;

6 (2) may not require financial assistance or grant conditions that  
7 interfere with the everyday normal operations of the recipient's  
8 business activities, except to the extent necessary to ensure the  
9 recipient's ability to repay the financial assistance and to preserve  
10 the value of the loan collateral; and

11 (3) shall expeditiously process all financial assistance or grant  
12 applications in accordance with a schedule established by the  
13 authority for the review and the taking of final action on the  
14 application, which schedule shall reflect the degree of complexity  
15 of a financial assistance or grant application.

16 (cf: P.L.2009, c.60, s.45)

17  
18 5. (New section) a. An award of financial assistance or a grant  
19 awarded pursuant to P.L.1993, c.139 (C.58:10B-1 et seq.) for a:

20 (1) preliminary assessment or site investigation of a  
21 contaminated site shall be expended within two years after the date  
22 of the award;

23 (2) remedial investigation of a contaminated site shall be  
24 expended within five years after the date of the award.

25 b. Failure to expend an award of financial assistance or a grant  
26 from the remediation fund within the time limits established in  
27 subsection a. of this section shall result in cancellation of the award.

28 c. No award of financial assistance or a grant shall be approved  
29 until the applicant demonstrates to the satisfaction of the authority  
30 that it has expended or will expend the full amount of any previous  
31 financial assistance or grant awarded under P.L.1993, c.139  
32 (C.58:10B-1 et seq.) to that applicant for the same property.

33  
34 6. This act shall take effect immediately and shall apply to any  
35 application for financial assistance or a grant from the Hazardous  
36 Discharge Site Remediation Fund pending before the Department  
37 of Environmental Protection on the effective date of this act, or  
38 submitted on or after the effective date of the act, but shall not  
39 apply to any application determined to be technically eligible and  
40 recommended for funding by the Department of Environmental  
41 Protection and pending before the New Jersey Economic  
42 Development Authority on the effective date of this act.

43  
44  
45 STATEMENT

46  
47 This bill changes the laws governing financial assistance and  
48 grants for the remediation of contaminated sites from the Hazardous



1 Discharge Site Remediation Fund. The bill eliminates the  
2 availability of grants and loans to persons who would otherwise not  
3 be eligible for assistance, but who remediate a site using innovative  
4 technology or who remediate to a limited restricted use standard.  
5 The bill would also eliminate the availability of innocent party  
6 grants.

7 The bill establishes limitations on grants to municipalities,  
8 counties, and redevelopment entities for projects in brownfield  
9 development areas. In those areas and to those government entities,  
10 the bill authorizes grants of up to 75 percent of the total costs of the  
11 remedial action. Further, the bill reduces the additional amount over  
12 the annual cap on financial assistance and grants otherwise in  
13 effect, which may be awarded in any one year to those government  
14 entities for projects in brownfield development areas, from  
15 \$2,000,000 to \$1,000,000.

16 The bill also reduces the cumulative total amount of matching  
17 grants that may be awarded to municipalities, counties, and  
18 redevelopment entities for projects involving the redevelopment of  
19 property for recreation and conservation purposes from \$5,000,000  
20 to \$2,500,000 per year.

21 The bill requires that at least 30 percent of the monies in the  
22 remediation fund be used for grants to municipalities, counties, and  
23 redevelopment entities for projects that are not in brownfield  
24 development areas that have been contaminated by a discharge or a  
25 suspected discharge of a hazardous substance or hazardous waste.

26 The bill reduces the cumulative annual cap on the maximum  
27 amount of financial assistance and grants that may be issued to a  
28 person from \$1,000,000 to \$500,000, and to municipalities,  
29 counties, and redevelopment entities from \$3,000,000 to \$2,000,000  
30 except for projects in brownfield development areas as noted above.  
31 The bill changes the priority for the award of financial assistance or  
32 grants from the remediation fund. First priority is given to sites that  
33 have been contaminated by a discharge or a suspected discharge of  
34 a hazardous substance or hazardous waste and where the discharge  
35 poses an imminent and significant threat to a drinking water source,  
36 to human health, or to a sensitive or significant ecological area;  
37 second priority is given to sites that are owned by a municipality in  
38 a brownfield development area; and third priority is given to sites in  
39 areas designated as Planning Area 1 (Metropolitan) and Planning  
40 Area 2 (Suburban) pursuant to the "State Planning Act." The bill  
41 requires the New Jersey Economic Development Authority (EDA)  
42 to adopt criteria, which must be met by a municipality, county, or  
43 redevelopment entity that applies for a grant, that the subject real  
44 property be developed within a three-year period from completion  
45 of the remediation.

46 In addition to the caps or limitations in the law, the bill provides  
47 that an award of financial assistance or a grant for a preliminary  
48 assessment or site investigation of a contaminated site must be

1 expended within two years after the date of the award, and an award  
2 of financial assistance or a grant for a remedial investigation of a  
3 contaminated site must be expended within five years after the date  
4 of the award. If the financial assistance or grant is not expended  
5 within the time limits provided, the award would be cancelled. In  
6 addition, no award would be approved until the applicant  
7 demonstrates to the satisfaction of the EDA that it has expended or  
8 will expend the full amount of any previous financial assistance or  
9 grant awarded to the applicant for the same property.

WITHDRAWN